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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,006	11/03/2003	Donald W. Verser	210331US (CPCM:0019/FLE)	3672
7590 06/05/2006			EXAMINER	
Michael G. Fletcher Fletcher Yoder P. O. box 692289 Houston, TX 77269-2289			NECKEL, ALEXA DOROSHENK	
			ART UNIT	PAPER NUMBER
			1764	

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

QW

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/700,006	Applicant(s) VERSER ET AL.	
	Examiner Alexa D. Neckel	Art Unit 1764	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


 Alexa D. Neckel
 Primary Examiner
 Art Unit: 1764

Continuation of 11. does NOT place the application in condition for allowance because: the arguments have not been persuasive.

35 UCS 112, second paragraph

With regard to claim 3, while applicant has indicated where in the disclosure of the specification provides antecedent basis for the limitations of the claim, applicant has failed to demonstrate how the claims themselves are clear.

With regard to claim 28, the examiner does understand that vapors are recited as being transferred to a fractionation zone, not liquid from the recycle zone, but those vapors become liquid in the fractionation zone (thereby being "fractionated") are sent to the recycle zone and then that liquid (which a portion of which has been "fractionated") is sent to the reaction zone. The claim remains unclear.

35 USC 103

Applicant argues that vapor 29 of Howard is not a recovered purge gas stream.

The examiner has not indicated that element 29 was the purge gas stream, but rather indicated col. 4, lines 54-57 to support such.

Applicant argues that Howard does not provide a purge column nor wherein it a recovery unit is connected to a top portion of the purge column.

Howard sends purge gas 21 through tank 107, thus tank 107 is a purge column. Howard teaches the general concept of returning recovered purge gas to the purge column/tank 107. As far as the particular location of the connection, such a recitation has been held as an obvious matter of design choice. *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975).

Applicant argues that none of the references teach transfer of equilibrium vapor nor a recycle tank to process such vapor.

The examiner respectfully disagrees. Hanson teaches a recycle tank 42 which produces vapors (not numbered arrow) and Kreischer has been relied upon to teach transferring recovered vapors to a fractionating zone.

In response to applicant's argument that one would not be motivated to combine Hanson and Howard, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case Howard is relied upon for general teachings regard treatment of polymerization effluent.

In response to applicant's argument that Kniel is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Kniel is treating the same material as that of the primary reference, purged hydrocarbons.